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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,645	03/01/2004	Kirk A. Glrum	60001.0120USD1/MS150527.2	9769
27488	7590	08/08/2006		EXAMINER
MERCHANT & GOULD (MICROSOFT)				EHNE, CHARLES
P.O. BOX 2903				
MINNEAPOLIS, MN 55402-0903			ART UNIT	PAPER NUMBER
			2113	

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/790,645	GLERUM ET AL.	
	Examiner Charles Ehne	Art Unit 2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 01 March 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 12-17 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 12 and 14-17 is/are rejected.  
 7) Claim(s) 13 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 15 is rejected under 35 U.S.C. 102(e) as being unpatentable by Kobata (6,170,065).

As to claim 15, Kobata discloses system for reporting failures of a program module, the system comprising:

a corporate file server operative to receive and store failure reports from users of the program module within a corporation (column 6, lines 14-18); and  
an administrative reporting executable comprising computer-executable steps for receiving the failure reports from users within the corporation (column 4, lines 23-36).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to

be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sampath (6,892,317) taken in view of Kobata (6,170,065).

As to claim 12, Sampath discloses a method for synchronizing failure data maintained in a file server with a destination server, the method comprising the steps of:

loading a plurality of failure information entries into a memory of the file server, wherein each entry corresponds to a failure (column 1, lines 38-44);

selecting which failure information entries to upload to the destination server (column 5, lines 43-48);

for each failure information entry to upload performing the following steps:

obtaining information from the destination server regarding the type of failure information that is needed (column 11, lines 17-22);

determining whether the type of failure information needed is the type in the failure information entry (column 11, lines 17-22); and

if so, then uploading the failure information entry to the destination server (column 3, lines 10-16).

Sampath fails to disclose wherein:

the file server is a corporate file server; and

the failure is a failure of a computer program module.

Kobata discloses an automatic system for providing dynamic diagnosis and repair of a users computer system (Abstract, lines 1-2). Kobat does disclose wherein:

the file server is a corporate file server (column 3, lines 52-67 & column 6, lines 14-18); and

the failure is a failure of a computer program module (column 1, lines 20-22 & column 2, lines 22-26).

It would have been obvious to one of ordinary skill in this art at the time of invention by applicant incorporate Kobata's corporate environment and notification of a failure of a computer program module with Sampaths networked file server error reporting system. A person of ordinary skill in the art at the time of invention by applicant would have been motivated to make the modification because a network administrator in a corporation faces hundreds or thousands of machines to check and repair (columns 1-2, lines 65-5) and Sampath provides a method for an automated detection and response to failures (Sampath: column 3, lines 6-16).

As to claim 14, Sampath discloses the method recited in claim 12 further comprising the steps of:

if the type of failure information needed is not they type in the failure information entry, then downloading from the destination server to the corporate file server the type of information that needs to be obtained for the particular failure of the computer program module (column 11, lines 17-22).

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobata (6,170,065) taken in view of Sampath (6,892,317).

As to claim 16, Kobata discloses a system for reporting failures of a program module, the system comprising a corporate file server operative to receive and store failure reports from users of the program module within a corporation (column 6, lines 14-18). Kobata does not disclose the system comprising a destination server for periodically receiving uploads of the failure reports from the corporate file server and wherein the administrative reporting executable is further operative to upload the failure reports to a destination server.

Sampath discloses a diagnostic server that receives failure events from networked devices and forwards the information to vendors, service providers and/or suppliers (column 1, lines 51-53 & column 2, lines 4-6). Sampath does disclose the system comprising a destination server for periodically receiving uploads of the failure reports from the corporate file server and wherein the administrative reporting executable is further operative to upload the failure reports to a destination server (column 10, lines 47-54).

It would have been obvious to one of ordinary skill in this art at the time of invention by applicant incorporate Kobata's corporate diagnosis and repair system with Sampath's destination server. A person of ordinary skill in the art at the time of invention by applicant would have been motivated to make the modification because by notifying the destination server of an error allows the destination server to provide scheduling of service, parts or a remedy (Sampath: column 2, lines 53-55).

As to claim 17, Kobata discloses the system of claim 16 wherein the destination server is operated by the manufacturer of the program module and wherein the corporate file server is maintained by an administrator of the corporation (column 3, lines 56-59).

### ***Allowable Subject Matter***

Claim 13 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Ehne whose telephone number is (571)-272-2471. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571)-272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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